

INTERNATIONAL CITY MANAGERS' ASSOCIATION
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RECORDING COUNCIL ACTIONS IN THE CITY CLERK'S OFFICE

What are the city clerk's duties as clerk of the council, and what is the nature of council records for which the clerk is responsible?

The office of city clerk historically is one of the oldest in municipal government and is one of the first positions created today with the incorporation of a new city. In cities lacking a chief administrator the clerk is likely to perform some of his executive functions. In a city with strong executive direction in the person of a city manager or mayor, the city clerk still performs a vital role in the functioning of the council. In some of the smaller cities and towns the city manager serves as the clerk of the council as well.

This is the first of two MIS reports on the work of the city clerk as clerk of the council. City clerks universally perform other important functions, particularly with respect to elections and financial administration, but these reports are confined to their most important role. This report considers the clerk and the legislative process, the nature of the council records for which the clerk is responsible, and suggestions for reducing the record-keeping burden of the city clerk. MIS Report No. 139 discusses methods of indexing and filing council records with suggestions for development of record retention periods.

The Clerk and the Legislative Process

The city clerk is the executive officer of the city council for the facilitation and accomplishment of the legislative process. He is a ministerial and not a discretionary officer whether elected by the people or appointed by the council or chief administrative officer, and his role is essentially that of the council's servant, aide, and recorder.

Council Rules of Order. It is good practice for the council to adopt its own rules of order. Such rules should be comprehensive, including basic legal requirements of statute or charter, and supplemented by more extensive subject matter within the discretion of the council. Such rules, adopted by resolution or motion, might well include any or all of the following suggested topics:

- Quorum, call to order and roll call, and attendance requirements
- Duties and powers of the mayor, president or chair
- Rights and duties of members
- Regular meetings; time and place
- Special meetings; procedures for calling
- Order of business and responsibility for preparation
- Council committees: name, appointment, functions, powers and procedures
- Communications: procedures for handling
- Public hearings
- Legislative procedure for ordinances and resolutions
- Amendment and suspension of rules
- Parliamentary rules used if council rules do not cover the subject

The larger the council the more complicated its committee structure, and the greater the volume of its business the more it has need for formalized rules of order to expedite the proper and fair handling of its work. But even the councils of very small cities can profit from the formalization of their policies and practices together with legally required procedures. Such rules are particularly valuable as instructions to the clerk in the preparation of matters for presentation to the council at its next meeting and for the proper handling of matters during and after council meetings.

Alert clerks and chief administrative officers in cities lacking such rules of order will suggest to their councils the preparation of such rules and will aid in drafting them for review and adoption. See MIS Report No. 31, "Rules of Order and Procedure for City Councils," for further suggestions and for a composite of council rules used in seven cities.

Preparation of Business for the Next Council Meeting. Communications addressed or referred to the council are first stamped by the clerk with the date and time received. It may also be useful to enter how the communication was delivered to the clerk--whether by mail, in person, or by messenger.

The next step is the identification of the communications's subject and its relation, if any, to any subject currently or previously before the council. The precise steps taken are intimately related to the nature of the system of filing and indexing which is discussed in MIS Report No. 139.

If the rules so provide the clerk should make a supply of copies of draft measures--i.e. ordinances and resolutions introduced and under consideration--by printing or duplicating for the use of councilmen, city administrative officials, and citizens interested in studying measures before their passage. Also if an ordinance or resolution is so amended as to be substantially altered, or if a substitute is made, by committee or council action, it may be the duty of the clerk to produce an authentic copy or copies for use in subsequent proceedings in such number and form as the council may require. Draft measures in various stages should be adequately identified so as to avoid confusion with each other and with final measures.

The clerk acting for committee chairmen, generally calls the meetings of council committees, summons witnesses and the public and attends with documents prepared for committee action. He makes a record of attendance and of business transacted by the committee as may be required by the rules or by the committee and assists in the preparation of reports. The clerk also arranges, as required by law or council instructions, for the publication and/or posting of ordinances, resolutions, and notices of public hearings and bids.

The clerk then prepares the documents or records for the next meeting. The use of forms aids the clerk in the expeditious handling of business during council meetings and in drafting minutes after the meetings. The nature and number of forms which may be used advantageously varies of course with the size of the council and its committee structure and with the number of communications on different types of business.

Los Angeles, for example, has forms: (1) for the opening procedure to show the names of members present and absent, (2) for the approval of the minutes of the previous council meetings, (3) for roll call blanks with "yes" and "no" column, (4) for receipt and disposal of reports from departments and officers, (5) for attaching to committee reports on which the name of the committeemen can be checked and appropriate action recorded, (6) for listing committees and officers for use in referring matters to them, (7) for the adoption and/or suspension of rules, (8) for

holding over an ordinance one week, (9) for ordinance on second reading, and (10) for adjournment. Special forms are used for procedures such as acceptance of deeds, street and other improvements, for lighting maintenance, for fixing time of hearings, for deferred hearing and protest of building lines, for confirmation of assessments, and so on. Smaller cities of course can achieve substantially the same results with fewer forms tailored to their own operations.

Since the probable action on each communication before the council can be predicted by the clerk with considerable accuracy, he can attach the appropriate form or forms to each communication.

Some city clerks prefer to use rubber stamps in lieu of forms feeling that rubber stamps are more economical and cannot be misplaced as can forms. The rubber stamp may be imprinted on either the face or back of the communication, thus providing a positive record of the action on the communication that stays with it even in the files, without adding bulk to the files. Through the use of the proper stamp, each with its own date, the document itself therefore carries a complete stamped notation as to each council step on a particular paper--date of submission; assignment for hearing and for reference, if required; date of hearing, whether tabled and later taken from the table; and final action, with notation to be made also on the particular document as to whom certified copies are sent, if necessary.

Completion of the calendar or agenda is the last step in preparing business for the next council meeting. The council's rules should set a time limit for the receipt of communications to be handled at each meeting, thus giving the clerk adequate time to prepare the calendar and to mail it, together with copies of the communications to be acted upon, to reach the council soon enough before the meeting.

Some council rules provide that the council consider no matter unless filed by the specific deadline, except on motion adopted by vote of two-thirds of all council members. Such a drastic rule against introducing new business directly in the council is generally not desirable. A simple majority should be sufficient to permit an ordinance or resolution to be introduced from the floor without notice and to receive reports. Delay may be worse than the inconvenience to the clerk from the new business. But council rules should require advance filing with the clerk of matters to be acted upon finally, in order to prevent the hasty introduction of last-minute schemes and to prevent the council from conducting city business on snap judgments.

The calendar should list all communications requiring council action and all those addressed to the council but disposed of by the clerk if the council's rules provide for such action. The communications are listed in the order of business prescribed by the rules, and sufficient information should be given about each item to indicate its general nature. The calendar also should include tabled matters, ordinances up for second or third reading, and other council business as suggested in MIS Report No. 46, "Preparing the Agenda for Council Meetings."

The Clerk in Council Meeting. The city clerk, if there is no ex officio president, calls the council to order at the first meeting of their term and presides until the president, chairman, or mayor is elected. The clerk also calls to order other meetings, if rules require, in the absence of the officer who presides. If in small cities the city attorney does not attend council meetings, the clerk may on occasion be the parliamentarian for the council. The clerk should be thoroughly familiar with the legislative procedure required by council rules and by local and state laws so that he can assist the presiding officer in preserving the customary and legal method of handling business.

The clerk reads each succeeding item on the calendar by title or in full as the rules or custom require or as directed by the council. Reading should be clear, rapid and understandable to all in the room with no partisanship betrayed in voice or manner. The clerk may not participate in debate.

Depending on the volume and complexity of business before the council, the clerk may need an assistant to handle the prepared forms and to be sure that an accurate record is kept of the council's actions, particularly of those actions which do not occur "according to form." More and more cities use recording equipment in conjunction with microphones installed for the use of councilmen, key administrative officials and the public. Electrical transcriptions of the entire proceedings provide positive records which can be checked by the clerk against the paper records of council actions.

Preparation of the Minutes. Two major tools greatly facilitate preparation of the minutes at the conclusion of a council meeting. First is the use of forms (or appropriate rubber stamps) attached to council communications in advance of the council meeting to simplify the accurate recording of council actions during the meeting. The use of such forms during the meeting virtually provides the clerk with the minutes in rough form by the end of the meeting.

However, it is impracticable to provide through forms alone the aid which another major tool can provide for drafting of the minutes, and that is a complete set of sample minute entries, organized into manual form for easy reference and use. The council manual of the city clerk of Los Angeles is an excellent example. Each time a new situation or new type of council action occurs, the clerk must give careful thought to the most appropriate wording for the minute entry; by adding that entry as a sample to a manual of all types of entries used in the past, duplication of the same thought process is eliminated the next time the same type of situation occurs. Use of such a manual not only speeds drafting of the minutes, but makes it a process which the clerk can readily delegate to others.

In general development of a single typed copy of the minutes, properly authenticated by signatures of the mayor or presiding officer and of the clerk, meets legal requirements for an official record of the council's proceedings. At the same time, in almost every city--even the smallest--it would seem desirable, if not necessary, to duplicate or publish copies of the minutes for review by councilmen before they approve them at the next meeting and for reference by administrators and citizens interested in council actions taken.

It is entirely practicable to secure the official record copy as a by-product of duplication or publication of copies for distribution, thus eliminating the extra typing of the official copy. All that is needed is to run off the official record copy on quality rag paper suitable for the purpose at the same time that the distribution copies are duplicated on city equipment (assuming that a permanent-type ink is used in the duplicating process) or printed commercially. In the unusual case that the council directs a correction in the minutes, another permanent copy can be run after the correction has been made. Thus, considerable clerical effort is saved as compared with the common practice of typing an official record copy while also separately duplicating or publishing (with expensive commercial type-setting) the minutes.

Careful attention should be given, of course, to the page layout and style of the minutes, in order to facilitate reference. It is good practice to add to a prominent location of each page the date of the minutes recorded on that page, and perhaps even to start each new meeting on a new page. Subject headings and file

numbers (discussed in MIS Report No. 139) should be together and prominently located. A common location is in the margin, but this somewhat unnecessarily wastes the page width, which is rather undesirable if page width is held to the 8-1/2 inch standard for duplication on city equipment; an alternative practice of leading off each minute entry with the file number and subject heading, both underlined, would seem to be a satisfactory practice which wastes less page space.

It is common practice to double-space all typed minutes, but this doubles the total bulk of the minutes and nearly doubles duplicating costs. While double-spaced copy is admittedly easier to read than single-spaced copy, the bulk of the former plus the fact that the minutes are not extensively read and re-read suggest that single spacing is justified for reasons of economy.

Certifying Council Action to Administrative Officers. It is most important for the clerk to certify the referral actions taken by the council to various administrative officials as quickly as possible after the council meeting. Two different good practices are in use. One makes use of copies of the minutes, a practical method if the minutes are quickly duplicated or printed. By rubber-stamping with an arrow the minute entry involving one official and routing that copy of the minutes to that official with a copy of any pertinent record, the official is advised of such referral with a minimum of effort on the part of the clerk.

Another practice is the use of a special form which may also have a copy of the minutes attached to it. An example of such a form used in Berkeley, Calif., is shown at the end of this report. In any case, such documents directed to officials other than the chief administrator should be routed through his office so that he can add his instructions for the handling of the council's referral and keep a copy of the referral form for follow-up.

It is even better practice for the council to make referrals only to the chief administrative officer rather than to any of his subordinates; then that officer can refer the matter in his discretion to appropriate subordinates.

Ordinances, Resolutions and Notices. Official copies of ordinances, and extra copies for distribution as needed, can generally be secured as a by-product of the universally required publication process, thus eliminating--in the same manner as for the minutes--the extra typing of official record copies of ordinances. The same is true of resolutions if state or local law requires publication of resolutions. The clerk must of course maintain records of the dates and the publications in which ordinances, resolutions and notices were published to meet legal requirements. Where a single publisher secures a contract for such publication by competitive bid or the city has its own official publication, the record keeping of the clerk is somewhat simplified.

The Nature of Council Records

Council records are the most important single group of records in any city hall. The importance of their careful custody and protection can hardly be overstressed. As a result, many city clerks do not permit original copies of minutes and other supporting records to leave their offices except as required for action in council meetings or upon court order, and then only in the custody of the clerk himself or a deputy. Under all other circumstances, copies only of the records are permitted to leave the office. While other clerks may find such an absolute rule unnecessary, certainly they should exercise the greatest care in charging out loaned materials in order to control their location and secure their return.

It follows that adequate physical protection from damage by fire and other cause is equally important. This presumes use of walk-in vaults, or of the more flexible fire-safe, point-of-use filing equipment. It also raises the question of the desirability of storing microfilmed copies of records in locations safe--or reasonably so--from major disasters.

Council records are as complex in nature as they are important. They may be classified into two main groups, each in turn having several sub-groups. In the absence of any standardized terminology in the field, the first group will hereafter be called "primary records"--ordinances, resolutions and minutes. The second group will be called "related records"--those subordinate and related to the primary records.

Ordinances. An ordinance has been defined as an act or law of a local governmental agency duly enacted by the proper authorities and expressed in ordaining form. Ordinances differ from other forms of city action both in form and in substance but most importantly in enactment procedure. Ordinances, being the highest form of city action, require a more formal and deliberate procedure for adoption. The council should act whenever possible by resolution or motion to avoid the more complicated enactment procedure for ordinances and the requirements of publication. In many cities ordinances are required by charter on some matters which might well be passed in resolution form. The following are useful guides in determining when council action must be by ordinances:

An ordinance always is required to amend or repeal an ordinance.

Regulations of persons or property, which impose a penalty by fine, imprisonment, or forfeiture for their violation, must always be by ordinance.

Action must always be by ordinance whenever the enabling charter or statutory authority under which the action is taken expressly requires an ordinance.

An ordinance may be classified into various categories depending upon the context in which the ordinance is considered, the source of the power to enact it, and its subject matter or effect. An ordinance may be general, being applicable throughout the city and intended to be permanent, or special, having limited application with respect to either the persons directly affected by them or to the duration of their effect. An ordinance code usually codifies only general ordinances while omitting all special ordinances.

An ordinance may be penal, establishing rules of conduct to be observed by citizens, which rules are effective only when a violation is made subject to a sanction or penalty, and nonpenal, lacking rules regulating the conduct of citizens and therefore not needing or containing penalty provisions. Lastly, ordinances may be legislative, being subject to the people's constitutionally reserved power of referendum and initiative (in states having such powers reserved to the people), and administrative, being not subject to such action by the people.

One of the most useful administrative and legislative tools in any city is a well-prepared code of ordinances. Ordinances are the law and voice of the city; only to the extent that they are available to and understandable by the citizen and the city official are they fully effective. A code restates and re-enacts every ordinance of general application into a well-organized and integrated body of law. The job of codification is one which can be safely undertaken only by skilled legal draftsmen; it is a time-consuming and expensive job. Yet the values of a code are so great that more and more cities are assuming the expense of preparing them. Of course the subject matter of a large number of special ordinances remains outside of the code.

The importance of careful drafting of ordinances cannot be overemphasized because a poorly drafted ordinance may induce litigation and revision. It is good practice for the chief administrator to require that all ordinances proposed by administrative officials clear with him for review as to substance and purpose before being submitted for legal drafting, and that all ordinances which have been legally drafted be cleared with him before they are submitted for council action. The first requirement places upon the administrative officials and the chief administrator the responsibility of reducing to writing a statement of what is wanted; this burden should not fall upon the city attorney in most cases. The second requirement gives the chief administrator and his subordinate an opportunity to review the ordinances and to raise appropriate objections to its provisions.

In small cities employing part-time attorneys the initial task of legal draftsmanship may well fall on the city clerk in the interests of economizing on the use of the city attorney but failure to have the city attorney review the "final" draft of an ordinance before its submission to the council is false economy indeed. In some cities, the council by law cannot adopt an ordinance unless the signature of the corporation counsel appears, certifying as to form and legality of the document.

Resolutions. These are next down the scale of dignity and importance. They are characterized by a few "whereases" usually followed by the words "Be it resolved," and can usually be adopted in one meeting and without newspaper publication. In general, if the council action need not be by ordinance, then it should be by "motion" or "order" (see discussion of "Minutes" below) unless one or more of the following conditions exist which indicate action by resolution:

The text of the council action is too long to be appropriately handled by motion or order.

The importance of the action being taken requires that the form by which the action is taken be of greater dignity and importance than that of a motion or order.

The enabling charter or statutory authority under which the action is taken expressly requires a resolution.

Minutes. By far the greatest number of council actions are taken by "motions" or "orders." These are the workhorses of the council; they can be lumped together and called "minutes actions" because the council minutes are often the sole evidence of their existence. The minutes also record of course the steps in the adoption of ordinances and resolutions. The minutes, therefore, are the most important single council record. Because of their importance, they are discussed at length below.

The second major group of council records are those which are subordinate but related to the primary records. They include contracts of all types, deeds, maps, plans and specifications, reports, memoranda, and correspondence. There is no standardized terminology that covers them en toto, and they will be called "related records" in this and in MIS Report No. 139. From the point of view of classification, indexing, and filing, which is discussed in MIS Report No. 139, two types of related records should be recognized.

Special Related Records. This term is applied to any one type of related record which is segregated from all other types of related records for filing purposes. Maps, contracts and deeds are examples, each of which is a special related record if segregated in the files from any other type of related record.

A number of factors should be considered in determining, for each type of related record, whether it should be treated as a special related record. One factor

is the relative frequency of reference to that type of record and the greater ease of finding it if segregated. Another is the availability of fireproof storage for all or only a portion of the records; if fireproof facilities are relatively limited, the most vital records must be housed in them, resulting in segregation that might not otherwise occur if all records are equally safe from fire. The typical size of the record is a factor as with large maps to which reference is easier when filed flat in large map file drawers than when folded to fit conventional file drawers.

It is impossible to generalize as to the types of records which should be segregated for handling as special related records. Each type of related record must be analyzed to determine whether the advantages of segregation outweigh the advantages of retaining most related records within a single basic group. In general the number of types of special related records should be minimized in order to keep the classification and indexing of all related records as simple as possible. It is safe to assume, however, that every city clerk segregates two or more types of special related records for filing purposes.

General Related Records. The term "general related records," as used herein is applied to all related records remaining after segregation of the special related records. Unless so many types of special related records are created that relatively few general related records remain, it is likely that the volume of general related records exceeds the combined volume of all special related records.

The Importance and Content of the Minutes

Undoubtedly the laws of all states and all city charters require city clerks to keep a record, journal, or minutes of the proceedings of their respective city council meetings. Despite this requirement, failure by the clerk properly to record council proceedings does not invalidate the proceedings or action taken unless the fundamental law (charter or statute) under which the council was proceeding made the recording of the action or vote a condition to the validity of such action. Therefore, the keeping of accurate and complete minutes is not essential to the validity of the proceedings to which they relate.

Nevertheless there are compelling reasons for the clerk to make the minutes as accurate as possible. Although it is the acts of the council in assembling at the proper time and place, and in casting their votes on the various matters presented to them, which determine the validity or invalidity of their actions, a sufficient record must be made of these activities in order to furnish satisfactory evidence not only of the subject matter of their decisions but also that they were adopted in accordance with the law or rule by which the council was governed. This is true, even though it might be conceded that the contents of a measure, as well as the proper procedure followed in its adoption, might be proved sufficiently to establish its validity, even though no minutes or insufficient minutes were recorded of the council meeting where the measure was acted upon. Finally, if accurate, complete and unambiguous minutes of council proceedings are recorded, these minutes themselves will be treated as conclusive evidence of the facts therein stated.

Specific legal requirements vary among the states and cities, but the basic requirements for the contents of the minutes are indicated below:

Jurisdictional Matters. In order that proof be established that a council has complied with the jurisdictional requirements for holding a meeting, the minutes state the facts concerning the date, hour, and place of the meeting; whether it is a regular, adjourned, or special meeting; the giving of proper notice to the council in the case of a special meeting; and the names of council members in attendance including the time of arrival or departure of any member not present throughout the entire meeting.

Approval of Minutes. Although there is no legal requirement that a council or its presiding officer shall approve the minutes of its proceedings recorded by the clerk, this traditional procedure is advisable since it lends even further weight to the accuracy and completeness of such records. It is good practice to mail the minutes to the council prior to the next meeting, so that they can review the minutes prior to the meeting and approve them during the meeting without delay.

Petitions and Communications. These are identified by the date, subject, and source of the documents and the action taken.

Bids. These are identified by subject matter, compliance with advertising requirements, names of bidders and the amounts of their bids, and the action taken by the council which may well be in the form of a resolution.

Ordinances and Resolutions. Compliance is shown with all procedural requirements governing introduction and adoption, and the title or subject matter is identified.

Reports of Officers. Written reports are identified by the name or title of the officer, the date and subject or title of the report, and its disposition. Oral reports are similarly identified except that an identifying date can be omitted.

Hearings. The minutes disclose the type and purpose of the hearings, the jurisdictional facts concerning compliance with procedural requirements, the written evidence and oral testimony presented, and the findings of the council.

Adjournment. An entry of the time of adjournment is advisable, partly to support the presumption that the minutes are complete, and to show whether adjournment was sine die or whether council is recessing to another specific date prior to the next regular meeting.

Signing of Minutes. Even if not legally required, it is advisable that the minutes be signed by the mayor and attested by the clerk, or vice versa, in order to add authenticity to the minutes as public records.

Exclusions from the Minutes. Good practice rather than legal requirements dictate exclusion from the minutes of the following:

Text of Records. Neither full verbatim copy of the text of a record nor a digest of its contents in the minutes is good evidence in the courts. The original record is what will be subpoenaed from the files. The court relies on the minutes only to establish what action the council took with respect to the record whether that record be an ordinance, resolution, report, petition, or any other document. Therefore it is wasteful of space in the minutes and of clerical effort and publication costs to include in the minutes verbatim transcripts or digests of any records acted upon by the council.

The above generalization applies to the practice of using the minutes to record the text of ordinances and resolutions as proposed, under consideration, and adopted. There is no justification for this practice in terms of the preservation of a record of such measures since records of such measures should be separately preserved; and it is only necessary to preserve a record of a measure as it was adopted, not as it was presented and amended. And there would seem to be no justification for the practice in terms of economy in printing or duplication since minutes and copies of draft measures are likely to go to different "publics" even though these publics will overlap to a greater or lesser degree. Further, the draft measure in the minutes is not ordinarily as convenient to use in committee or council consideration as a separate copy of the draft measure.

Oral Statements. From a legal standpoint, it is a dangerous practice to record in the minutes anything but the whole of any statement or series of statements. Unless remarks are exactly recorded by a qualified reporter or mechanically and exactly reproduced, they are as likely to be detrimental as helpful to the city in the event of controversy. Obviously the recording of exact statements into the minutes is most impractical and certainly involves no benefits justifying the excessive cost entailed. Any citizen with a sufficient interest in exact reporting of his remarks should be required to secure such a record at his own expense through employment of a qualified reporter.

Therefore the general rule is to avoid any reproduction or paraphrasing or any oral statements made at council meetings other than those which precisely describe the actions taken by the council. The only exception that might be made is the request by a councilman that his remarks be included in the minutes; in such a case, the clerk should ask the councilman to approve the form and content of the remarks before making the same a part of the record. Rules of some councils, however, expressly instruct the clerk to eliminate exact statement and discussions.

Reducing the City Clerk's Record Keeping Burden

The mounting flood of paper work and of stored records, in industry as well as in government, has given impetus to a relatively new field of records management as a tool of administrative direction. Alert chief administrators and city clerks will seek to apply the techniques of this new field to the management of council records. The city clerk alone can accomplish relatively little through the approaches described below and must turn to the chief administrator and the city attorney for cooperation and assistance if the results potentially available are to be achieved. Three major approaches will be discussed in turn: controlling the creation of council records, reducing duplication of filing effort, and reducing retention periods.

Controlling the Creation of Council Records. It costs the city clerk approximately as much in clerical effort, duplicating cost, and filing space to process a relatively insignificant communication as one which involves an important council decision. It is likely that most city councils take actions which are unnecessary from two points of view:

If the council itself issues individual licenses or permits or takes action on individual situations of any type for which it is possible to develop statements of council policy in the form of ordinances or resolutions, which can be applied by administrators without undue discretion which implies improper delegation of legislative authority, then it may be assumed that the council is acting unnecessarily in individual situations. It is a sound principle of administrative management that the chief administrator should act as infrequently as possible in the application of established policy to specific situations but should delegate authority to others to apply established policy. This principle would seem to be even more important and valid in relation to the objective of safeguarding legislative time.

If the council either because of local law or custom acts more frequently than is absolutely necessary, from the standpoint of the public interest, in handling a specific matter on which its policy decision is required, then the council is taking unnecessary actions. An example in one city relates to construction contracts for which the council typically takes these actions: (1) approval of plans and specifications and authorization to advertise for bids; (2) opening and reading of bids and referral to the city engineer for tabulation and report; (3) receipt of the city engineer's report and award of the bid together with appropriation of the necessary money if this has not been done previously; and (4) approval of all partial and final payments made to the contractors.

Certainly the policy decision with respect to the construction project relates to the approval of the plans and specifications and the provision of the money, all of which could be handled in one minute action; because of charter requirements concerning the award of bids the council must take this additional action. All other actions cited above are unnecessary since the bids could be opened in the office of the city engineer instead of in council meeting; and approval of payments, pursuant to a council-approved contract, should require administrative action only. Each city undoubtedly has many of its own particular examples of such unnecessary actions.

Elimination of unnecessary council actions of both types may not be achieved too easily because councils jealously retain their "legislative" prerogatives and may fail to recognize which of its actions are basically legislative in nature. Explanation by chief administrators of the basic differences between legislative and non-legislative council actions, explanation of the cost to the city clerk and the city administration generally of unnecessary "red tape" in council referrals, and emphasis on the need of safeguarding the time of busy councilmen for consideration of matters requiring truly legislative action should result in adoption of a broad program to eliminate unnecessary council actions.

Another approach to the elimination of unnecessary council actions lies in the control of the flow of communications to the council. The chief administrative officer should himself control the preparation of the agenda, or at least he should control the flow of communications from administrative departments to the city clerk for presentation to the council. In the absence of such control many unnecessary council actions can occur through the submission to the council of communications on which the council cannot take final action until still other communications are secured which comment upon the first ones. Even if the first communication may be from some board or commission which has the authority to report directly to the council without clearance through the chief administrator, the latter should at least have the opportunity to review such a communication so that he can be prepared with any appropriate report of his own at the same time.

Also, communications to the council received by the clerk may appropriately be referred to the chief administrator first if that is the logical action the council itself would take. The council rules might well specify the procedures to be followed by the clerk and the chief administrator in the processing of communications in order to eliminate unnecessary council actions while insuring that what should reach the council does so at the most appropriate time. "Items referred" by the clerk pursuant to such rules and without referral to the council might well be listed on the council calendar for information but not action unless the council should wish to inquire about such a communication.

Reducing Duplication of Filing Effort. Any large organization has a considerable duplication of filing effort, resulting from the uncontrolled filing of copies of the same record in different places unless it has adopted a positive program to eliminate unnecessary filing of extra copies. Virtually all council related records in the clerk's office are duplicated elsewhere in departmental files thus making this perhaps the most serious problem of duplicating files in municipal government.

Elimination of unnecessary duplication of filing can be achieved only through adoption of the concept of a city-wide filing system instead of independent departmental filing systems (see "Management of Municipal Filing System, MIS Report No. 115, August, 1953). Under this concept, elimination of unnecessary duplicate filing would be approached primarily in these two steps: (1) each type of record would be analyzed to determine which department should be considered as the "record department" to retain the "record copy"; and (2) the needs of "non-record departments" for retention

of "non-record" copies would be determined, in order to reduce as far as possible the filing of non-record copies, or at least to reduce their retention periods.

With this approach, what can be accomplished in reducing the volume of records filed by city clerks? Probably not very much; for, as a general rule, the clerk must be considered the "record department" for all council records. But must this always be the case?

Consider these types of bulky records: official subdivision maps and all plans and specifications for public improvements and public buildings. They are retained by clerks as public records, because they required council approval. But the originating planning and engineering offices, not the city clerk, have need for working reference to these records and hence keep duplicate copies. Citizens may wish to inspect such maps, but they can do so with equal ease in the originating offices. In the meantime, the clerk purchases expensive map files and assumes the clerical expense of filing the maps and plans.

It is not reasonable that such bulky records be returned to their originating departments for permanent filing. With council file numbers added to such records before their return and with the originating departments (rather than the clerk) maintaining special numeric indexes for them, is it not reasonable to assume that these council records can be as adequately controlled and safeguarded by the originating departments as by the clerk? Certainly this is possible under a city-wide concept of a municipal filing system, which is needed for more important reasons than the elimination of inter-departmental duplication of filing effort. Quite possibly there are other types of council records for which similar treatment is equally valid.

Establishing Retention Periods for Council Records. It is generally held that all council records must be kept permanently--if not in their original form at least on microfilm. There can be no argument that this is true of the primary records--minutes, ordinances and resolutions.

But what of the subordinate or related records? Permanent retention means forever, and forever is a very long time. Can anyone seriously contend that the public interest requires that related records be retained forever? Microfilming may solve the problem of bulk under a policy of permanent retention; but microfilming is quite expensive, and the related records represent the real bulk of council records as compared with the primary records.

Entirely aside from the relatively high cost of retaining all records permanently, whether in their original form or on microfilm, is the question of finding records which are sought. Destruction of records after they no longer have reference value reduces the volume of records and therefore makes it easier to find the more valuable records when requested. This is true regardless of the form in which the records are kept.

If the tradition that all council records must be retained permanently can be questioned and dispelled, it seems certain that careful analysis of council related records for their retention values will lead to the establishment of varying retention periods. This, in turn, will lead to retaining most related records in their original form until their retention periods expire and microfilming only the primary records which must be retained permanently and the related records which must be kept at least 10 to 15 years. (See "Municipal Records Management and Control," MIS Report No. 114, July, 1953, for discussion of the establishment of retention periods and the design of a records center for low-cost storage of records in their original form.)

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The subject matter of this report is based largely upon three sources: (1) "Recording Council Action in the City Clerk's Office," by Orin F. Nolting and Josephine B. Hollingsworth (International City Managers' Association, 1938), now out of print; (2) "Preparation, Publishing and Preserving Ordinances; Adoption of Codes by Reference; and Codification of Ordinances," by Lewis Keller, associate counsel, League of California Cities; and (3) "The Form and Contents of Council Minutes," by Karl Brooks, city attorney, Petaluma, California. Use of the latter two sources is made with the kind permission of the League of California Cities which published them as part of its "Proceedings of the City Clerks Institute," held in Fresno, California, in June, 1954.

July, 1955

RECORDING COUNCIL ACTIONS

CITY OF BERKELEY
OFFICE OF CITY CLERK
MATTER REFERRED TO CITY MANAGER
BY CITY

DATE _____

DETAIL OF MATTER OR DOCUMENT REFERRED, WITH PERTINENT COMMENT:

These are padded forms in triplicate with the original on white paper, the duplicate on green, and the triplicate on yellow.

DOCUMENTS ATTACHED:

SIGNED _____
CITY CLERK

CITY MANAGER'S RECORD

DATE _____

ABOVE MATTER
REFERRED TO _____

INSTRUCTIONS:

SIGNED _____
CITY MANAGER

DISPOSITION:

REFERRED TO COUNCIL COMMITTEE _____

REPORT MADE, NO ACTION TAKEN _____

COMPLETED _____

DATE _____

RESOLUTION NO. _____

